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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,231	07/27/2001	Jorg Worner	31833-173684	6862

7590 01/30/2003

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EXAMINER

LEE, PATRICK J

ART UNIT	PAPER NUMBER
2878	

DATE MAILED: 01/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/916,231	WORNER, JORG
	Examiner Patrick J. Lee	Art Unit 2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 27 July 2001.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-16 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-16 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 27 July 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Information Disclosure Statement***

2. The information disclosure statement filed 10/02/2002 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because an English language version of the search report is not provided. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C (1).

***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: For figure 1, label 14 is not described. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hug 5,180,922 in view of Schwarte 4,737,624. With respect to claims 1-3, Hug discloses a distance measuring apparatus comprising of photoelectric light transmitter (11), photoelectric light receiver (12), and microprocessor (16). The distance from object (13) is determined based on the transit time differences via the measurement path (14) and via the reference path (15) (see abstract, lines 5-7). However, the device of Hug includes two photodiodes (18-19) to emit light, one to the target path, and the other to the reference path. And also, a coupling means is missing from the invention as disclosed by Hug. Schwarte 4,737,624 teaches an optoelectric distance measuring apparatus that includes a coupling means consisting of optical switches (7, 11) and reference lightguide (14) to form a reference signal. To combine the teachings of Hug with that of Schwarte would have been obvious to one of ordinary skill in the art as doing so would eliminate the need of one photodiode and circumvent any potential problems should the timing of turning on two photodiodes (18-19) simultaneously not be accurate.

With respect to claims 4-7, Hug teaches the use of housing (17) but does not explicitly state the use of an exit window. The combination of teachings by Schwarte

and Hug do not explicitly state that the coupling means is disposed within the housing. However, such is well known and would have been mere matter of obvious design choice to one of ordinary skill as doing such would allow for extended lifetime use of the apparatus.

With respect to claims 8-13, while Hug in view of Schwarte does not explicitly teach the method of quantization of amplitudes of an analog reflection signal, such is known in the art and would have been a mere matter of obvious design choice as the calculation of the transit-time difference could have been accomplished through the use of phase comparators or the use of gating devices.

With respect to claims 14-15, Hug and Schwarte do not explicitly teach that the reference pulse and the reflected pulse are read into different inputs of a time-measurement module, but such is known and would have been obvious to one of ordinary skill in the art as doing such would prevent the potential confusion of optical signals should light pulses be sent continuously.

With respect to claim 16, the use of these devices as safety devices is known for motion and object detection uses. Also the utilization of a single-channel design is known for its ease of use. To incorporate the optoelectronic apparatus as stated in the claim would have been obvious to one of ordinary skill in order to provide an effective security device with proficient performance.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Moll et al 6,265,725 teach an optoelectronic device.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick J. Lee whose telephone number is (703) 305-3871. The examiner can normally be reached on Monday through Friday, 8:00 am to 5:30 pm.,

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Porta can be reached on (703) 308-4852. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-9558 for regular communications and (703) 306-5511 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

Patrick J. Lee  
Examiner  
Art Unit 2878

PJL

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January 24, 2003



DAVID PORTA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800